

CITY OF MIAMI BEACH
Office of the City Manager
Letter to Commission No. 190-2004



To: Mayor David Dermer and
Members of the City Commission

Date: July 22, 2004

From: Jorge M. Gonzalez
City Manager

Subject: **DESIGN REVIEW BOARD DECISION - DRB FILE 17666 (7100 Fisher
Island - Palazzo Del Mar) –**

Transmittal of transcript of the DRB hearing of the April 20, 2004

A transcript of the DRB hearing held on May 18, 2004 was transmitted to the Mayor and City Commission via LTC 170-2004.

Attached is the transcript of the DRB hearing held on April 20, 2004.

JMG\REP

c: Jorge Gomez, Planning Director
Murray Dubbin, City Attorney

F:\CLER\CLER\FORMS\7100 Fisher Island Drive.ltc.doc

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P R O F E S S I O N A L A S S O C I A T I O N

VIA HAND DELIVERY

July 22, 2004

Mr. Robert Parcher
City Clerk
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

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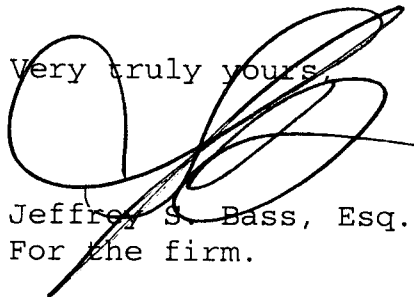
Re: Transcripts of DRB Proceedings

Dear Mr. Parcher:

Pursuant to your telephone conference with my office yesterday, please find attached copies of both the April 20, 2004 and the May 18, 2004 Design Review Board proceedings.

If I can be of any further assistance, please do not hesitate to contact me or my staff at the below-referenced telephone number.

Very truly yours,



Jeffrey S. Bass, Esq.
For the firm.

Enc.

cc: Gary Held, Esq.
Cliff Schulman, Esq.

Design Review Board Meeting
 Miami Beach City Hall
 1700 Convention Center Drive
 Miami Beach, Florida
 Tuesday, April 20, 2004
 8:30 a.m.

COPY

IN ATTENDANCE

Gregory Neville, Chairman
 Janet Grant Hyman
 Steve Lefton
 Mike Steffens
 Peter Chevalier
 Gary Knight
 Ralph Choeff
 William Cary
 Cliff Schulman, Esq.
 Jeffrey Bass, Esq.
 Thomas R. Mooney, AICP
 Gary Held, Esq.-- Assistant City Attorney

IN ATTENDANCE

Gregory Neville,
 Janet Grant
 Steve Left
 Mike Steff
 Peter Cheva
 Gary Knigh
 Ralph Cho
 William C
 Cliff Schulma
 Jeffrey Bass
 Thomas R. Moone
 Gary Held, Esq.

1 (Thereupon, the following proceedings were
2 had:)

3 MR. MOONEY: Okay. The next application
4 is DRB file number 17666, 7100 Fisher Island
5 Drive, which is Palazzo del Mar, and the
6 applicant, I believe, is ready.

7 Cliff, you guys are ready, right?

8 MR. SCHULMAN: Yes.

9 MR. MOONEY: The applicant is requesting
10 design review approval for the construction of
11 an 11-story multi-family residential building.

12 A similar application was approved by the
13 Design Review Board of two years ago. The
14 applicant has brought back a slightly different
15 redesigned version of that project and the
16 architect will go into more details relative to
17 the changes that they have made in the overall
18 designs.

19 Staff does not object to this particular
20 project as it is consistent with the established
21 architectural form on Fisher Island. We have
22 recommended that this application be approved
23 subject to the conditions enumerated in the
24 staff report.

25 MR. NEVILLE: Okay.

1 MR. SCHULMAN: Mr. Chairman, members of the
2 board, my name is Cliff Schulman. I am an
3 attorney with offices at 1221 Brickell Avenue
4 representing the applicant today; and at least
5 for some of you, I am sure, this is deja vu all
6 over again. In other words, we were previously
7 before this board as Tom mentioned. I know Mike
8 was on the board. I know Fred was on the board.
9 I'm not sure if others were.

10 The history of Fisher Island needs a little
11 bit of an explanation for some of the members of
12 the board who were not here the last time, and
13 with your permission, Mr. Chairman, Fisher
14 Island is unusual in many respects. Can you
15 hear me with this? Is this working?

16 For the members of the board who were here
17 the last time I apologize for repeating myself,
18 but it's been a few years. For those that have
19 not been here before, Fisher Island is unique in
20 a number of ways. It is a portion of the City
21 of Miami Beach. In point of fact, it was
22 originally the south tip of Miami Beach until
23 1906. Approximately 15 acres of Fisher Island
24 was, in fact, the south tip of Miami Beach until
25 the dredging of Government Cut, which was done

1 in 1906.

2 However, the rest of the island is in the
3 unincorporated area save and except for the
4 approximately 17 acres, which is basically right
5 on Government Cut, and it's inhabited by a
6 building called Villa del Mare, which we will
7 hear more about in a few moments, which is
8 within the municipality boundary of the City of
9 Miami Beach.

10 In those years, when you dredged a channel,
11 you had a waste. It was spoil. Okay. It was
12 the dredged materials that came out of the
13 bottom, and Fisher Island, in point of fact, 220
14 acres of it is basically made up of the
15 substantially the spoil from the dredging of
16 Government Cut. And that's why the remainder
17 the island, other than this, is in the
18 unincorporated area of Dade County.

19 In point of fact, it was ousted from the
20 jurisdiction of the City of Miami Beach in about
21 1956 by its previous owners.

22 In 1989 this portion of the island had a
23 history of being owned by the United States
24 government originally used for some of the port
25 pilots who used to dock some of their vessels in

1 this area and go out to meet the ships off
2 Government Cut. Subsequently it was turned over
3 to the University of Miami Rosensteel School of
4 Marine Science and in 1989 was acquired by
5 developers of the Fisher Island.

6 At that point in time this particular
7 parcel was zoned by the City of Miami Beach
8 RM-PRD, planned residential community,
9 residential multifamily.

10 At that particular point the zoning on it
11 allowed a 2.0 floor area ratio for the entire
12 site, which has subsequently been reduced to 1.6
13 floor area ratio.

14 In 1989 this board, a predecessor of this
15 board, in fact approved the Villa del Mare,
16 which is presently existing at the tip, the
17 easternmost tip of Fisher Island.

18 And so the island itself still has left
19 within the City of Miami Beach approximately 12
20 acres, and the building which we brought before
21 you in 2001 was basically sited in this
22 particular site.

23 In 2001 we had a number of hearings. In
24 point of fact, we had six hearings, two of which
25 were continued, four of which went ad infinitum.

1 They went on in July 11, 2001; October 16;
2 November 20; and eventually the project was
3 approved by this board on January 15, 2002.

4 The original project that we brought to you
5 had four buildings on that 12 acres. Eventually
6 the final design was for one building on 12
7 acres, with future buildings to be brought back
8 to this board on a case-by-case basis.

9 There was opposition, as there will be
10 today, before the board back in 2001 and 2002,
11 and they were the residents of Villa del Mare.
12 And you will be hearing from them, I am sure.
13 But these residents who basically bought in that
14 particular building came before this board and
15 paid in the range of \$2 million for their units,
16 and they indicated that they didn't like
17 Mediterranean design any more. They thought
18 that the design that we brought before the board
19 was boring and monotonous. They felt it was too
20 massive.

21 Nonetheless, this board after these four
22 hearings and over 300 pages of testimony
23 approved the matter, and an appeal was taken to
24 the city commission.

25 The city commission again approved the

1 decision of this board. We were taken to court
2 on that, the circuit court appellate division.
3 The circuit court upheld this board, and we are
4 now on appeal in the third year to the district
5 court of appeal and that matter is still
6 pending.

7 For purposes of the record, I would like to
8 enter into the record the proceedings before
9 this board before the city commission, before
10 the circuit court, before the District Court of
11 Appeal, and I hand this to the clerk for the
12 record. (Indicating.)

13 Just for the record, Mr. Bass indicated he
14 had no objection to entering that into the
15 record. He just thought it would be heavier.
16 Otherwise, I would have brought it in on a
17 wheelie.

18 Today's proposal is somewhat different than
19 the one that was before you in 2001 in some
20 substantial ways. The project you approve and
21 the building you approved in 2001 had 46 units.
22 This proposal has 34 units, which is a 26
23 percent reduction in the number of units.

24 The building we brought before you in 2001
25 had approximately 250,000 square feet of

1 residential floor area. The building before you
2 has 197,000 square feet, or a 21 percent
3 reduction in that.

4 The floor plate which this board, which I
5 will show in you a moment, approved was
6 basically substantially larger; and in point of
7 fact, if you compare the floor plate to our
8 nearest neighbor, Villa del Mare, their floor
9 plate is 35,000 square feet, and this floor
10 plate is 19,000 square feet.

11 In order to try to picture the changes from
12 the last building to the present building, we
13 tried to do so rapidly. The orange outline that
14 you see is a building that was approved by this
15 board in 2002 after those hearings.

16 The gray footprint that you see here is the
17 building which we bring to you today, and our
18 architect will explain the rhyme and reason why
19 the footprint has changed so and has been
20 reduced so. And that is basically response to
21 market conditions.

22 MR. MOONEY: Cliff, I don't think that
23 microphone is working.

24 MR. SCHULMAN: But for purposes of a
25 comparison also, we thought it would be

1 important to show you, because you will be
2 hearing from them, the difference between this
3 building and other buildings on the island, as
4 you can see in The Clusters, including Villa del
5 Mare.

6 So what we did is we took our floor plan,
7 and we superimposed it over the Villa del Mare
8 site plan and floor plan of our nearest
9 neighbor; and as you can see, the building which
10 we bring to you today is substantially less than
11 the building of even our closest neighbor. And
12 that is shown in even more graphically when we
13 will look -- again, on the floor plan that was
14 previously approved. This is Villa del Mare,
15 which is the one on the easternmost tip of the
16 island. This is the building that was
17 previously approved by this board, and now you
18 can see the building.

19 Now one important factor was we wanted to
20 make sure we had more than adequate, if not
21 generous, separations between ourselves and our
22 neighbors.

23 During that the course of those four
24 hearings our building moved in 2001, 2002 from
25 75 feet tower to tower to eventually 166 feet

1 tower to tower. And that distance is basically
2 shown here, and the project which we bring to
3 you today maintains the 166-foot difference or
4 separation.

5 But to just give you an idea of Fisher
6 Island, normally the separations -- this is just
7 directly south of Villa del Mare. This is in
8 the unincorporated area, and what you have in
9 tower-to-tower separations in the unincorporated
10 area ranges between 50 and 75 feet throughout
11 the entire island. This project is separated
12 almost two times that or 166 feet from building
13 to building.

14 We wanted to try to give you an idea of the
15 visual experience that you would have seeing
16 this building from McArthur Causeway. So what
17 we did is through the miracles of computer
18 science we were able to generate our building;
19 and as you can see, there are some other
20 buildings on this south tip of Miami Beach that
21 are somewhat larger than ours; and if you look
22 very closely, I am going to bring it closer you
23 can see it. You will see a Villa del Mare right
24 at the tip and right next to it would be the
25 proposed building superimposed because it is so

1 small, no matter how big we made this picture.

2 Again, we wanted to show it to you a little
3 bit larger, and the architect will go into the
4 specifics of the building. But the building we
5 bring before you today computer-generated and
6 superimposed into its site location is basically
7 here. As you can see, it is compatible with the
8 other buildings but different.

9 One of the issues before the board the last
10 time was, can you make it somewhat different
11 than some of the other buildings or the other
12 buildings on Fisher Island? And the architect
13 will indicate some of those differences, but
14 again, we have the pedestrian walkway which
15 traverses the entire island. The pool will be
16 on the Government Cut side. In the original one
17 we brought before you we actually put the pool
18 somewhat foolishly on the other side, and we had
19 flipped it back and still maintains in that
20 location. And then you can see the separation
21 between Villa del Mare and this particular
22 building.

23 Now, we also wanted to analyze what impacts
24 this project would have on the views of Villa
25 del Mare. And so again, we computer-generated

1 the building in its location and looked over.

2 This is Villa del Mare, again, that somewhat

3 large footprint of about 35,000 square feet,

4 superimposed our building; and as you can see,

5 the view that would be impeded by the building

6 basically is -- I don't know how to put this --

7 it's not the best view of Fisher Island. It

8 basically is the view of Belcher Oil facility

9 and basically the Port of Miami, or what we call

10 Gantry Crane City, which unfortunately some of

11 your units on Fisher Island are adjacent to the

12 gantry cranes; but basically that view, what we

13 tried to do was tuck it in and block out that

14 particular gantry crane area while maintaining

15 the views again across Government Cut.

16 | So to emphasize the separation between the

17 buildings, again the computer-generated

18 building, and again Villa del Mare, with

19 approximately 166 feet of separation between the

20 two buildings and the ability to pass through to

21 pedestrian walkway, which goes through the

22 island. And looking at it another way, or the

23 opposite way again, the separation between Villa

24 del Mare which exists and the building of our

25 imagination, which exists here.

1 What we managed to do by changing the
2 footprint, look, it's also pull out one of the
3 legs of the building which was basically
4 sticking up and also blocking views of others
5 and basically reduced the visual impacts this
6 way.

7 Again, as to compatibility with our
8 neighbor, this is Villa del Mare as it presently
9 stands. This is looking towards South Beach.
10 This is not on Fisher Island. The wonders of
11 modern photography and perspective, and this is
12 Portofino Tower. But, again, we are looking
13 north toward Miami Beach and again south into
14 the island which buildings I showed you earlier
15 and their various perspectives.

16 Mike Angoli from the Swedroe Group will
17 basically describe now the building itself.
18 Mike?

19 And just for purposes of the record, in
20 case this matter goes any further, we would like
21 all of the visual examples that we have been
22 utilizing today incorporated in the record, and
23 if the clerk would number them before we leave
24 today, we will substitute small scale versions
25 for the clerk's benefit.

1 MR. ANGOLI: Our objective in designing
2 this project, the next building --

3 MR. NEVILLE: I am sorry, sir. Could you
4 just introduce yourself?

5 MR. ANGOLI: Yea. My name is Michael
6 Angoli. I am a partner in the firm of Robert
7 Swedroe Architects, Miami Beach.

8 MR. NEVILLE: Thank you.

9 MR. ANGOLI: Our objective in designing
10 this project has been to develop the next
11 building of Fisher Island in a way that's
12 totally compatible with the existing community.

13 In fact, the developers is mandate -- is
14 mandated to do so under the terms of the
15 original Dade County covenant, while at the same
16 time having this building distinguish itself as
17 a luxury residence which is unique amongst its
18 neighbors.

19 First and foremost, each residence in the
20 building, if you look at a typical floor of the
21 building, you can see -- called for four units
22 on the floor. There is four units on a floor
23 here. Each unit is accessed by its own private
24 elevator, elevator foyer, eliminating the need
25 for corridors.

1 MR. CARY: Could you hold the microphone up
2 a little closer?

3 MR. ANGOLI: Each of the four units is
4 accessed directly from the original -- from a
5 private elevator foyer. In other words, when
6 residents in their guests come to the dropoff at
7 the entrance to the building, they enter into a
8 private elevator, which takes them directly into
9 the apartment.

10 MR. CARY: We're losing you on the public
11 record. You've got to hold the mike closer,
12 please.

13 MR. ANGOLI: They are not required to exit
14 their elevator and circulate down a corridor to
15 the front door of the building.

16 This -- while this is considered common
17 practice in luxury condominiums of this size
18 today, it is unique to Fisher Island, and it
19 will be the first building of its kind designed
20 this way.

21 Secondly, as the visitors and guests arrive
22 at the building, they will enter into a second
23 level air conditioned entry foyer which will
24 have unobstructed views to the ocean and
25 Government Cut as you can see right here.

1 And in addition to the two lanai level
2 units with the standard expanded private
3 terraces on either corner of the building, and
4 also this building will also contain public
5 amenities for residents of this building alone,
6 which will include the fitness center, the
7 pilates studio, a guest suite, public toilets
8 and home theater. Again, this is unique to the
9 existing buildings.

10 With regard to the exterior of the
11 building, our intention is to use the same rich
12 pallet of materials and colors that exist on the
13 island today, which include fish tail -- a fish
14 scale stucco texturing, precast stone columns
15 and moldings, barrel tile, terracotta barrel
16 tile roofs, ornamental railings and deep
17 terraces.

18 All in all, we think that this building
19 will totally will blend seamlessly into the
20 existing environment, yet at the same time we
21 think it will serve to enhance Fisher Island's
22 reputation as one of the premier luxury resort
23 residential communities.

24 | If you have any other questions regards to
25 the specifics, I will be glad to answer.

1 MR. NEVILLE: Mr. Schulman, I am not sure
2 that you explained why this is coming back in
3 front of us.

4 MR. SCHULMAN: Yes, sir. The existing
5 buildings, which is in litigation limbo, for
6 lack of better term, we have been looking at the
7 this particular design for issues of salability.

8 As you can well imagine, things have
9 changed in three years as to what kind of units
10 that are out there that we are competing with.
11 And so what we basically did is did a revamp of
12 the building looking at a more salable unit,
13 including the availability of public spaces
14 within the lobby area, which the older buildings
15 on Fisher Island do not have, individual
16 elevators, as well as maximizing views. And so
17 that caused us basically to compress the
18 building, get rid of a wing, if you will, and
19 certain number of units to maximize these unit
20 and also make them larger for redesign.

21 So that litigation will continue. This
22 building is also one which we wish to pursue and
23 basically put on the marketplace, see how the
24 market responds to it. So that's why we are
25 back before you. Staff felt compelled, I guess

1 because of the somewhat elongated history, not
2 to administratively make a determination as to
3 whether or not this was substantially in
4 accordance with the previously approved building
5 and suggested that we bring it back to the
6 board.

7 MR. NEVILLE: If this is approved, are you
8 going to drop your plans for the other building
9 or --

10 MR. SCHULMAN: We don't know yet. The
11 other building is still out there. If it's
12 approved by the courts, we will then have the
13 opportunity to see which one perhaps the
14 residents want us to build.

15 MR. MOONEY: This is a separate application
16 from the one that was approved before, so in the
17 event that the board was to approve this
18 particular application in some form, they would
19 essentially have two applications to choose from
20 to build on the site. And we did indicate to
21 the applicant that we thought that the changes
22 that they made to the building were substantial,
23 and that they could not be approved
24 administratively. It would have to come back to
25 this board as new approval.

1 MR. NEVILLE: That is kind of my question
2 actually I was leading up to asking you. Is it
3 possible to have two different approvals for the
4 same site?

5 MR. MOONEY: Yes.

6 MR. NEVILLE: It is? Okay.

7 MR. SCHULMAN: And lastly, Mr. Chairman,
8 the only thing I would add, and I will be
9 available for any questions, is the staff in the
10 report recommendations raised some issues
11 regarding the height of the building and whether
12 or not variances would be required.

13 This is a mansard roof, and under the code
14 we believe it meets the requirements for height
15 and is in total compliance from a zoning point
16 of view, and I believe staff has verified that.

17 MR. MOONEY: Yes. And let me just verify
18 for the record this is a mansard roof. And it
19 has been measured to the top of the slab and it
20 does meet the code requirements for roof
21 heights.

22 MR. KNIGHT: Mr. Chairman, may I ask a
23 question for legal counsel? Understanding you
24 can apply for two -- anybody in the city could
25 apply and bring two completely fully developed

1 plans in for the same site and have the DRB
2 approve both plans and then choose which one to
3 build?

4 MR. CARY: Yes, that happened with the
5 Continuum site.

6 MR. HELD: I have no reason to disagree
7 with staff's opinion on that.

8 MR. KNIGHT: Does that affect, however,
9 does anything we do today affect the legal case
10 that is moving its way through the courts? In
11 other words, my question is -- that's really my
12 question is, does by taking action today in any
13 way involve the city or whatever else is going
14 on here?

15 MR. HELD: We are already to party because
16 we are defending the prior DRB board decision.
17 I am sure the applicant's attorney would not be
18 bringing this application if it were not in the
19 best interest of the applicant, so whatever
20 benefits or disadvantages there may be, we will
21 just deal with that.

22 MR. SCHULMAN: Thank you, Mr. Chairman. We
23 are here to answer any questions.

24 MR. NEVILLE: Does anybody have any
25 questions for the applicant?

1 MR. STEFFENS: Do you have a rendering or
2 photograph that is similar to that view of the
3 previous project we approved?

4 MR. SCHULMAN: I did not bring a large
5 scale one, Mr. Steffens. I did bring a small
6 scale one if you will just give me a moment.

7 MR. STEFFENS: Also, do you have one of the
8 photographs of the Villa del Mare building --

9 MR. SCHULMAN: Yes.

10 MR. STEFFENS: -- that you could put up
11 that we could look at?

12 MR. SCHULMAN: I apologize, it's in black
13 and white.

14 MS. HYMAN: The design review board could
15 not make comment on anything because was so
16 reduced we could not read it. This is very,
17 very small.

18 MR. STEFFENS: Cliff, could you give us
19 some other pictures of the Villa del Mare that
20 are a little clearer like those?

21 MR. SCHULMAN: Yes. Okay.

22 This is Villa del Mare as it exists. And
23 this is the proposed building here.

24 MR. KNIGHT: What is the height of the
25 Villa del Mare as compared to the --

1 MR. SCHULMAN: One hundred twenty feet.

2 MR. KNIGHT: And the new building?

3 MR. SCHULMAN: Again, 120 feet is the
4 height of this particular parcel.

5 MR. NEVILLE: And in stories? How many
6 stories comparatively?

7 MR. SCHULMAN: This building is ten. It's
8 one more story. Okay. Ten, ten over parking.

9 MR. NEVILLE: How large is the existing
10 building?

11 MR. SCHULMAN: Nine over parking.

12 MR. NEVILLE: Anybody else have any
13 questions or we will just open it up to the
14 public and bring it back to the board.

15 All right. Let's open up to the public.
16 Anybody from the public like to speak on this
17 application, please step forward.

18 Do you want to take those boards down?

19 MR. SCHULMAN: No, personally I want to
20 leave them up. Objection.

21 MR. NEVILLE: Little friendly legal banter
22 I guess, right?

23 MR. SCHULMAN: Definitely legal banter.

24 MR. BASS: And I would dare characterize it
25 as friendly as well. Although, we will see if

1 my friend Cliff disagrees.

2 I am told that the real reason they filed
3 this application, is that they were suffering
4 from separation anxiety. They hadn't had the
5 opportunity to spend a lot of time with me and
6 their neighbors, but we will see whether or not
7 Cliff disagrees with that.

8 For the record, Mr. Chairman, members of
9 the board, Jeffrey Bass is my name, 46 Southwest
10 First Street is my address. I am here
11 representing the condominium association
12 referenced as Villa del Mare, although their
13 proper name is Oceanside of Fisher Island
14 Condominium Association No. 5, Inc. as well as
15 certain individual residents, owners of that
16 building and importantly citizens of the City of
17 Miami Beach, who -- some of whom have joined me
18 today, and that's Mr. and Mrs. Steve Burke and
19 Mr. Skippy Pines. And unfortunately, Mr. David
20 Paretsky is ill and can't be with us. I am
21 further joined by Ms. Suzanne Martinson, a
22 licensed architect, and former member of this
23 board many years ago.

24 On a housekeeping, a few housekeeping
25 items, I have no problem to incorporating the

1 record of the prior proceeding into the record
2 of this proceeding, but recognizing this is an
3 entirely separate and independent proceeding and
4 the prior proceedings are in no way binding on
5 this board.

6 We also throughout the prior proceedings
7 raised a series of constitutional challenges to
8 your design review board ordinance itself. We
9 recognize that this is not the proper arena to
10 raise the arguments. However, nothing we say
11 today should be construed as admitting that they
12 are constitutionally firm.

13 Cliff did an excellent job summarizing some
14 of the history leading up to the presentation
15 before you. Those members who were on the board
16 recognize, and I think the staff recognizes,
17 that the fundamental, the fundamental
18 philosophical question before this board is
19 whether or not this site should be treated
20 differently because it is on Fisher Island.
21 That's another way of saying, would you approve
22 a Mediterranean Revival building like this
23 anywhere else within the City of Miami Beach?

24 In this regard, I have to correct one thing
25 that Cliff said. Cliff characterized our

1 opposition as being anti-Mediterranean Revival
2 in the prior proceedings. That is not the case.
3 We never came out against the language of
4 Mediterranean Revival. What we did say,
5 however, was the prior architectural treatment
6 didn't include any of those components that made
7 for good Mediterranean Revival. And in -- I
8 think proof of the pudding is in the eating. We
9 went through lengthy, lengthy hearings. We went
10 through a series of revisions, four buildings,
11 three buildings, and then one building.

12 The four building plan was colorfully
13 referred to as mimicking Lefrak City or Co-op
14 City because when you have -- and it was a great
15 line, certainly a classic line because when you
16 line a -- when you line up this type of building
17 and you create this type of fabric, a term that
18 the board used in its prior proceedings to
19 describe the resulting architecture was
20 monotony. There was much debate as to whether
21 or not the architecture in the prior proceedings
22 was monotonous.

23 So and rather than straight ahead and up
24 front trying to cure the monotony, what they did
25 was they constricted the scope of the project

1 from four buildings to three buildings to
2 finally to the one building, which I understood
3 from Cliff's proceeding to be basically
4 unmarketable, unsellable, and that's why they
5 are here coming back to the drawing board.

6 | The lesson of the prior proceeding is they
7 can do better if you make them, but they are not
8 going to do better on their own. And we
9 respectfully submit that they can do better and
10 they should do better than the building that is
11 before you.

12 I am not going to address the architecture,
13 per se, because I know how much the board loves
14 hearing lawyers speak about architecture. So we
15 have Suzanne Martinson to address that.

16 But on what I will call sort of the legal
17 component of this board's consideration or the
18 philosophical component of this board's
19 consideration, you have something unique in the
20 RM-PRD district, something that exists almost
21 nowhere, and that is you have a minimum lot size
22 of ten acres.

23 When you look at the staff report in this
24 case, they look at what is the size of the lot.
25 They described it as eleven acres. And one of

1 the standards that this board is obligated to
2 try to apply, if you can apply it, is to look at
3 a building and determine whether or not that
4 building represents an efficient arrangement of
5 land use relative to the surrounding community.

6 We have said that there is nothing that
7 planning abhors more than piecemeal development.
8 And so rather than coming in with the one
9 building, and we will show you the rest later,
10 we have said that we need to do it in reverse.
11 Show us what you are going to do so you can have
12 a meaningful opportunity to comment on the
13 design because you know if you approve this
14 building, you are going to have an almost
15 impossible time saying no to the next building,
16 and then what we have here is an impenetrable
17 and monotonous wall of building next to building
18 next to building lining what has indisputably
19 been characterized as the most prominent
20 remaining building site in Miami Beach.

21 Now, the prior proceedings were fascinating
22 in terms of you can never really predict how a
23 jury or how an audience like the board is going
24 to react to things. One of the most, I thought,
25 insightful comments raised was that raised by

1 Don Worth, and he said, let's stop for a moment
2 and pause and think about not how this building
3 is going to be experienced by Mr. Bass's clients
4 and their Villa del Mare because we owe a
5 greater obligation to the City. How are people
6 in South Pointe Park going to react to this?

7 And in the prior proceedings staff wrote a
8 recommendation more telling than this. When it
9 went out of its way to indicate that it was not
10 a fan of the architecture proposed, and that a
11 great case could be made for having Government
12 Cut, serve as an architectural corridor, not of a
13 derivative form of architecture that mimics
14 everything that Dade County approved, but of
15 something in the words used by the chair earlier
16 this morning and the words used by the board
17 then, speaks to architecture of its time, and I
18 would like to just read what staff put in its
19 report in the prior proceedings because that
20 component of the analysis has not changed, and
21 this is reading from the staff report of the
22 prior submission:

23 "A case can be made for introducing an
24 architectural style which is of its time and
25 less a duplication of established period of

1 architecture. As previously indicated, although
2 Fisher Island is private and the scale and
3 context of the proposed new structures will not
4 be readily viewed and experienced by the general
5 public, these structures will define the
6 architectural corridor of Government Cut."

7 In this regard, the properties on the north
8 side of Government Cut are characterized by
9 architecture of its time, and buildings that
10 contribute, not only to the scale and character
11 of the South Pointe area, but create an
12 attractive and appropriate architectural
13 corridor for those experiencing Miami Beach, not
14 from within my client's condos but those
15 experiencing Miami Beach from the water, and I
16 think one of those questions this board should
17 have is what acknowledgment does this rendering
18 have or does this building have to those
19 experiencing Government Cut from the water? And
20 I think the answer is none whatsoever.

21 "The new" -- continuing from the staff
22 report -- "The new development of a project on
23 Fisher Island could augment this architectural
24 corridor for those experiencing Miami Beach from
25 the water. The new development could augment

1 this corridor by utilizing a less derivative
2 building form and developing an architectural
3 concept of its time."

4 And they go on and in full fairness to
5 context say, "However, the design chosen to the
6 proposed development is consistent with the
7 established building form of Fisher Island, and
8 that the residents of Miami Beach will not
9 really experience proposed development in any
10 direct way."

11 That's what staff said last time, and I
12 think they say the same thing this time. When
13 you read their staff report, it could hardly be
14 characterized as cheerleading for the
15 architecture of this project. And having sat
16 through the proceedings this morning, I know
17 that this board will have a difficult time
18 reconciling a lot of the insightful comments and
19 criticisms that it gave to, for example, the Wes
20 Baylinson project which was, without question
21 that was great; but when you look at the Byron
22 Apartments, you started to see images of this.
23 You see a large building. The only difference
24 is, you know, maybe the next 20 years rather
25 than brown, if they paint it pink, the

1 resemblance will be closer.

2 But the question that I want to ask staff
3 just point blank to help shape the debate is:
4 Would staff recommend the approval of this
5 building anywhere else within the City of Miami
6 Beach? And I will ask that question to Mr. Cary
7 through the Chair and I will ask Mr. Mooney to
8 respond to it as well. This is a quasi-judicial
9 hearing, and I do have that right. They are
10 friends, so I am going to not pose it as
11 cross-examination. I would just like to get
12 staff's comments on that question.

13 MR. CARY: Well, there has been a formula
14 of architecture that has been developed for this
15 area Fisher Island. The building that's
16 proposed works within that formula. Does that
17 formula work elsewhere in Miami Beach? No, it
18 wouldn't because it would not be relevant to
19 other areas of Miami Beach.

20 There might be maybe a specific location
21 where the board may wish to consider from a
22 Mediterranean Revival style of architecture, but
23 this is major hi-rise architecture, but it's
24 consistent with the form of what's already been
25 evolved for Fisher Island.

1 Would we want to see this building located
2 elsewhere on Miami Beach? I would be hard
3 pressed to identify a location where we would
4 like to see it and recommend it be approved.

5 MR. BASS: This is, if I could have
6 follow-ups, do you recall recommending an
7 approval of a building like that anywhere else
8 within the City of Miami Beach in this
9 Mediterranean Revival style in the last year?

10 MR. CARY: No.

11 MR. BASS: And just to follow up to your
12 formula, could you explain to me where that
13 formula for the context was established or how
14 you -- how you reached your conclusion?

15 MR. CARY: Well, the formula is established
16 on Fisher Island in itself, and I would imagine
17 the formula revolved from the original mansion
18 that was designed on Fisher Island, which is the
19 Mediterranean Revival style; and so I would
20 imagine -- I don't think either Tom or I were
21 here when the first buildings were approved for
22 Fisher Island, but they, you know, chose to take
23 the architecture of a low-rise architecture and
24 apply it to a hi-rise multifamily residential
25 developed architecture by applying barrel tile

1 roofs and the architectural elements and
2 features which are more related to the
3 Mediterranean Revival style of architecture.
4 And usually we look at a building such as is
5 proposed, we are going to end up having a
6 Campanile, which is ten stories or eleven
7 stories in height, which is not really
8 characteristic of that type of architecture
9 style. Usually a Campanile is associated with
10 single-family residence of this style which may
11 be three stories in height or something like
12 that, but it's not inconsistent with that which
13 has already been designed for Fisher Island.

14 MR. BASS: And do you know whether that
15 which has already been designed has undergone
16 design review?

17 MR. CARY: I would defer to Tom on that.

18 MR. MOONEY: I don't think so. Since I
19 have been here for eleven years and this is the
20 first building that I reviewed for approval on
21 Fisher Island.

22 MR. BASS: Thank you.

23 MR. CARY: I mean, the architecture is not
24 consistent with the philosophy, you know, the
25 general philosophy of the board and the staff

1 and architecture should be of its time on Miami
2 Beach. That's why this is a very special design
3 environment.

4 MR. BASS: Thank you very much and thank
5 you for the opportunity to ask you those
6 questions. Couple of more points, and I will
7 move on.

8 MR. NEVILLE: Okay.

9 MR. BASS: And they are largely technical
10 in nature.

11 To begin with, none of the studies that I
12 saw today were included in the submission in the
13 design review file. Just the opposite is in
14 fact the case. When you review the submissions
15 and the design review, the kit as you call it,
16 we believe that they are deficient. We believe
17 that the staff report recognizes it as such.
18 You almost never see a staff report where the
19 FAR of the building is proposed is N/A. And
20 when you look through the submissions, the best
21 that I could see in terms of a context study is
22 page eleven. And if you were to turn to page
23 eleven, I know that Ms. Martinson is going to
24 use page eleven as one of the speaking points,
25 because you don't even have a site plan as part

1 of your submission. At best you have is what's
2 known as a partial site plan, making it very
3 difficult to appreciate what's happening here
4 within the proper context, and we would submit
5 without a proper site plan submitted it would be
6 impossible for this board to discharge its
7 review duties to determine the satisfaction of
8 the design criteria.

9 I have a few handouts. Unfortunately, I am
10 a few short. So I am going to hand them to the
11 board. They are nothing different than those
12 which we previously used in the prior
13 proceedings. They are some pictures of the
14 existing conditions on Fisher Island that I
15 think help illustrate what our cause for concern
16 is if this same building prototype is allowed to
17 replicate without any meaningful differentiation
18 whatsoever, and also to again confirm the fact
19 we are not saying no to Med. Revival. We are
20 saying no to bad Med. Revival. We have
21 collected a series of images which we believe
22 present pure components of Med. Revival which we
23 would like to see introduced into any building
24 that is constructed so close to ours.

25 We are not going to discuss zoning before

1 you because we know that that issue is not
2 before this board. We are not going to discuss
3 density before you. We are not going to discuss
4 height before you. We have limited our comments
5 today to the architecture of this building, and
6 we would hope that you would give this building
7 the same robust review that you give to any
8 other building that is filed within the City of
9 Miami Beach for your consideration.

10 We believe that because you wouldn't
11 approve this building anywhere else, you can't
12 and shouldn't approve it here without
13 significant modifications. And that said, I
14 would like to ask Suzanne Martinson to come up
15 and speak briefly about the architecture.

16 MR. STEFFENS: Before you go, before you
17 go, you just want better Mediterranean Revival
18 architecture?

19 MR. BASS: What I said was, we want better.
20 And what I also said was, we are not here to say
21 no to Mediterranean Revival categorically, and
22 we have never said that.

23 What we said was, when you look to this
24 building, when you look to the elements of this
25 building, this building really is nothing to get

1 excited about. I never heard anybody say
2 anything from your staff positive about it other
3 than that it kind of blends in and maybe it will
4 disappear.

5 MR. STEFFENS: Do you want better
6 architecture or do you want better Mediterranean
7 Revival architecture?

8 MR. BASS: I don't see the two as being
9 inconsistent objectives. Certainly better
10 Mediterranean architecture would be better --

11 MR. STEFFENS: Well just depends on how
12 descriptive we get. Because we could just look
13 for better architecture and leave it open, and
14 then you could end up with a Helmut Jahn
15 building next to your neighbors, which I don't
16 know if they would really prefer that, or we can
17 look for better Mediterranean Revival
18 architecture so that maybe there is something
19 compatible with the neighbors.

20 MR. BASS: Let me, if I may respond to your
21 comment, I don't think that this board should
22 handcuff itself in any way in terms of its
23 review of the development proposed for this
24 site. In all fairness, however, Mr. Schulman
25 has said, and we don't dispute, there are

1 certain constraints on the developer as it
2 relates to the style of building.

3 So I am not going to stand here and be a
4 cutey pie and tell you to go make him build a
5 Helmut Jahn building when I know that he can't
6 do that. That's not our position whatsoever,
7 and it would be a mischaracterization to
8 conclude as such.

9 What we are here to say is, they can do
10 better than the building that they have
11 suggested. And it's up to you all to make sure
12 that they do, and we would look forward to
13 hearing the comments or criticisms that you
14 might have as to what could make it better.

15 MR. CHEVALIER: What is constraining him?

16 MR. BASS: I am sorry. I will let
17 Mr. Schulman on rebuttal respond to that. It's
18 my understanding that there is a constraint
19 contained in a -- either the covenant,
20 self-imposed developer covenant that limits in
21 some broad terms the ultimate design to prohibit
22 a Helmut Jahn glass and steel curtain building.
23 But I will let Mr. Schulman respond to that.
24 And I think it's a very relevant question, but
25 no, we are not seeking to put him in a Catch-22

1 dilemma in any respect.

2 MR. LEFTON: I feel like we are in a
3 Catch-22 with your comments where you have
4 suggested that you want a better Med. Revival
5 building. So let's say if we could somehow
6 agree that we have the best, whatever that is,
7 whatever that is, the best Med. Revival
8 building, you have also told us that we
9 shouldn't approve this because we wouldn't
10 approve it elsewhere. And I think even the
11 best, whatever that is, Med. Revival building,
12 we wouldn't approve anywhere else, so I am not
13 sure how if we get to yours or anybody else's
14 definition of what the best is, that we can
15 still respond to your concern that we wouldn't
16 approve it anywhere else, and I am caught in a
17 question of what are you looking for?

18 MR. KNIGHT: And let me add one third point
19 to those two previous points; and that is, it's
20 not clear to me if you are asking for the best
21 Mediterranean Revival or if you are asking for
22 us to view this building as a building that
23 would go any place else on Miami Beach, or if
24 indeed you are really saying a third point, that
25 you don't want any building, any additional

1 building approved until you have a full building
2 plan for the rest of the remaining unbuilt area
3 of the Miami Beach portion of Fisher Island.

4 MR. BASS: I will start in the reverse if I
5 may. Absolutely yes to the last. Not an
6 inconsistent position. That is to say, we
7 really don't think it's appropriate for this
8 board to approve any building there without
9 understanding the context of those buildings
10 that are going to populate the rest of that
11 site. So that, that I make as an independent
12 point. Independent of the other two.

13 To respond to, as best as I can recall,
14 points one through three, our positions are the
15 following: We want the best building possible.
16 I never said we want the best Med. Revival
17 building. We want the best building possible.

18 What I did concede, however, point of fact,
19 Mr. Schulman says he might have trouble building
20 the best building possible if it's anything
21 other than Med. Revival. I am not here to
22 advocate Med. Revival in any form, but I am
23 certainly not here to oppose it, either.

24 However you dice it, they can do a better
25 building than this building, and I think it's up

1 to this board to explore where this building can
2 be approved, and it's up to this board to
3 determine what language is appropriate for those
4 improvements.

5 MR. NEVILLE: Okay.

6 MR. CHEVALIER: Do you think the
7 building --

8 MR. NEVILLE: Peter, do you have something
9 else to add?

10 MR. CHEVALIER: How would you judge the
11 building that you are representing in terms an
12 example of Med. Revival?

13 MR. BASS: Let me answer that question as
14 candidly as I can. My clients didn't build
15 their building. None of them are architects or
16 purport to be architects. They bought a
17 building anchoring a point of land at a point in
18 time when there was nothing around them. The
19 entire context has changed. At the time, and
20 this is in the record of the prior proceedings,
21 at the time that they bought there was a
22 representation made to them and, in fact, if you
23 look at the survey before you, you can see that
24 site is platted for 12 estate homes.

25 Now, we are not here to tell you to make

1 them build 12 estate homes, although I would be
2 lying of i tell you it wouldn't delight us or
3 even 24 estate homes, but we are not here to
4 make that argument. What we are here to tell
5 you is that the proposition of living next to,
6 in that building that my clients live in, 12
7 single-family estates on Government Cut versus
8 being sandwiched into a wall of like buildings
9 are two palpably different positions.

10 I am not here to tell you that our building
11 is the greatest building from any architectural
12 standpoint. It has movement to it and contours
13 to it that the proposed -- the new proposed
14 building does not. You look at the flat, drop
15 edges of this building and I will let Suzanne
16 Martinson, an architect speak to that, but I am
17 not here to hold out our building as any
18 postcard for great Med. Revival architecture. I
19 will simply say, you know, we didn't build it,
20 we didn't develop it and we didn't approve it.

21 MR. NEVILLE: I have a little concern about
22 what you said about having the best possible
23 building. We all want the best building on
24 every application that comes through here, but
25 we are not in the business of dictating who the

1 architect is.

2 Maybe the best building could be designed
3 by some architect from somewhere else that, we
4 are not going to tell the developer who to hire
5 as an architect. We have had architects come
6 through here that are less talented than others
7 perhaps, and we have worked with them to get the
8 best building possible that perhaps that
9 architect can design for that site. And I think
10 that's what, you know, we are all in agreement
11 for, but to just state that the mission is to
12 get the best building possible I think is maybe
13 not possible.

14 Not only that, there is cost constraints
15 perhaps. So we can't tell the developer to, you
16 know, open your pocketbook and spend freely to
17 make the best building. There is obvious
18 constraints that we all know about, and we have
19 to treat that have I think very delicately.

20 MR. BASS: Well, certainly nothing I should
21 say should have been viewed as passing on the
22 qualifications of one architect over another. I
23 spent enough time before this board to know that
24 revisions and improvement go hand in hand. It's
25 very infrequently the case that a project is

1 presented to this board and they come out
2 without having any meaningful input from this
3 board in terms of how to make the building
4 better.

5 MR. NEVILLE: That's what we are here for.

6 MR. KNIGHT: May I ask the attorney one
7 other question? Is it within the purview of
8 this board to say that we cannot act on a
9 particular building unless we have a plan for
10 the entire buildout of an area?

11 MR. HELD: Staff has a comment that you
12 might want to listen to before --

13 MR. MOONEY: We have not done that in the
14 past and so --

15 MR. KNIGHT: Have or have not?

16 MR. MOONEY: We have not done that in the
17 past.

18 MR. HELD: If you are asking whether it's
19 within your discretion to say that, it probably
20 is within your discretion. However, it's not
21 required, and the building can stand on its own
22 might.

23 MR. STEFFENS: I have another question for
24 the attorney. What are your clients going to do
25 when they propose a building to the south of

1 them that doesn't go through design review?

2 MR. BASS: To the south of them, I am not
3 sure.

4 MR. STEFFENS: The empty building site for
5 the south of them?

6 MR. BASS: I would be speculating. I would
7 be speculating.

8 MR. CHEVALIER: It's not in the City of
9 Miami Beach.

10 MR. BASS: That's a good point. Obviously
11 the balance of the island was developed without
12 design review because it's not within the City
13 of Miami Beach. When you look at the rest of
14 the island you can see that design review can
15 serve a very salient point, but I would be
16 speculating.

17 MR. STEFFENS: And the site directly
18 adjacent, that's an empty building site. That's
19 not Miami Beach. That's not subject to design
20 review.

21 MR. SCHULMAN: Just to clear the record up,
22 that site is developed at the present time.

23 MR. STEFFENS: That has been developed?

24 MR. SCHULMAN: Yes.

25 MR. STEFFENS: So your photographs are not

1 up to date?

2 MR. SCHULMAN: That's correct. Let me just
3 point that out to you.

4 MR. STEFFENS: Okay.

5 MR. MOONEY: Mr. Chairman, after this item
6 there is one more item, it's a request for
7 rehearing for the Marlborough House. The
8 planning board has a meeting at two o'clock in
9 these chambers and so we received a request if
10 we could try to finish everything up between
11 1:30 and 1:45.

12 MR. NEVILLE: That's fine.

13 MR. SCHULMAN: Let me just point out this
14 particular site, which is that what you are
15 referring to?

16 MR. STEFFENS: Yes.

17 MR. SCHULMAN: Two buildings are now
18 existing in this particular site in the
19 unincorporated area.

20 MR. STEFFENS: Okay.

21 MR. SCHULMAN: By the way, they are 75 feet
22 away from this building.

23 MR. STEFFENS: Were they challenged?

24 MR. SCHULMAN: No.

25 MR. NEVILLE: Okay. Suzanne, we have been

1 alerted that we have to vacate at 1:45. Okay.

2 MS. MARTINSON: For the record, my name is
3 Suzanne Martinson. I reside at 7910 Southwest
4 54th Court, Miami, Florida 33143, and I am a
5 licensed architect, and I would like to readapt
6 my prior statements concerning this site and for
7 a building of this nature.

8 | This building is very similar in the
9 presentations that you have seen before. It's a
10 formulaic solution, and it fails to capture the
11 potential magnificence of this site at the
12 entrance to the harbor of Miami and Government
13 Cut.

14 Architecturally speaking, it's an extruded
15 form. There is seven floor plates that are
16 bilaterally symmetrical and stacked one on top
17 of another creating the same elevational detail
18 in that region, the midbody of the building, and
19 it's placed on a parking podium and with the
20 penthouse levels that are roofed above it to cap
21 off the building.

22 It has the appearance of an engineered
23 design solution and seems to have been valued,
24 engineered down to -- down to its minimal
25 essence with a few Mediterranean Revival details

1 on the building.

2 I would definitely like to see more of a
3 creative concept for the development of the
4 site, and I have no qualms about the use of
5 Mediterranean Revival architecture. We have
6 discussed this in the past; that it has a
7 particularly rich vocabulary and coming off as a
8 segment of classical architecture that allows
9 architects a great variety in the vocabulary and
10 especially the creation of space.

11 I would like to see this building take the
12 opportunity on the site, have varied heights to
13 the structure instead of a completely stacked
14 plate approach. All of the wonderful issues
15 that you have been discussing, smaller projects
16 on Miami Beach, a relationship to the pedestrian
17 street, the relationship to an automotive
18 street, your sense of arrival and entrance from
19 land side, the sense of arrival into the ship of
20 arrival into Miami, the view from the other side
21 of Miami Beach across the Government Cut, the
22 view there to this particular site.

23 Within the Mediterranean vocabulary you
24 have the great potential of the solid void
25 relationship that you could create spaces within

1 the complex of the building itself. The
2 exploration of that, the juxtaposition of scale
3 within the building envelope, some of the
4 elevational ideas that could be used. The
5 opportunity to pop out sections of the building
6 for different roof structures.

7 I would like you to refer to page eleven,
8 as Jeff said, in the architectural drawings.
9 This was the presentation of the contextual
10 elevation, and you can see the relationship of
11 the new building to the existing building. The
12 existing building at least has a step-down
13 facade. No attempt to pick up on a cornice
14 height maybe that might have been established by
15 an existing building that this building is
16 relating to. This is a shear extrusion up.

17 Opportunity to break down some of the
18 roofs, lower the scale possibly, and there is a
19 great variety of things that can be done if one
20 really applied themselves.

21 I mean, I have the feeling when I look at
22 this project that it was designed not to
23 context, similar to the lack of information
24 supplied on this page, with the plan just
25 brought in through AutoCat, put down on the

1 site. You don't even have a whole plan on the
2 site to see how it relates and the same thing
3 set on the ground level line. It's just flown
4 in and plopped down, and it could be flopped
5 down anywhere along this eleven-acre site.

6 And what is the real shame here is that one
7 has a great opportunity to take this valuable
8 land and really design something meaningful and
9 worthwhile for Fisher Island in and of itself,
10 not even Miami Beach, but for Fisher Island;
11 that they have a variety of spaces and a variety
12 of pedestrian/golf cart/car experiences to
13 activate the architecture.

14 Back to sheet eleven, the lack of design
15 and recognition of context again is evident in
16 the sheet, and the whole parceling of the site I
17 think would be very important here, and you
18 know, maybe a different marketing approach. We
19 don't -- we are not within the purview to, you
20 know, tell them what to do, but I mean they
21 could make it a very exiting, salable thing just
22 from a different point of view instead of having
23 the same mid-rise building that they have been
24 offering on the island. There is a great
25 opportunity here.

1 In conclusion I would like to say that the
2 design -- I hope that the design review board
3 doesn't approve this submittal, and that they
4 would call upon the designers of this building
5 to meet the same high standards and the -- and
6 to pay attention to all of the levels of
7 architectural detail and concerns that you have
8 about pedestrians and viewers and importance of
9 the site and make them adhere to your stringent
10 requirements.

11 MR. NEVILLE: Thank you, Suzanne.

12 Anyone else from the public would like to
13 speak? Okay, Mr. Bass, do you have something
14 more to say?

15 MR. BASS: Yes, just wrapping up again, I
16 want to thank you for your opportunity. I would
17 like to conclude by saying we don't believe that
18 they have met their burden of proving they have
19 satisfied the standards by substantial and
20 competent evidence, and we would ask you to make
21 them go back to the drawing board and design a
22 better building.

23 MR. NEVILLE: We will close it to the
24 public if no one else wants to come up.

25 I was on the board the last time this thing

1 came in four times, and when I saw this in my
2 packet, believe me, I shuddered because it was
3 very contentious. The fact is, to my memory it
4 is really the most contentious application that
5 I have seen come through here. I have spoke in
6 favor of this from the very first meeting, and I
7 will just keep my comments brief and to the
8 point why I spoke in favor of it at the time.

9 | Number one, yes, it is part of Miami Beach
10 and, no, I would not approve this anywhere else.
11 There is no greater advocate for architecture of
12 today than I am. That's what I encourage, and
13 that's what I promote, and this doesn't and did
14 not meet those requirements. However, it's part
15 of Fisher Island. Yeah, it's in Miami Beach,
16 but it's part of Fisher Island. The context is
17 not Miami Beach, but Fisher Island. And it's so
18 detached that I made a point that you have to
19 get there by a ferry. You can't even get there
20 from the roads of Miami Beach. It's not likely
21 at all that any resident in the main island of
22 Miami Beach would go and view this building no
23 matter what its outcome may be. Yeah, you would
24 be able to see from across the Government Cut.
25 If it wasn't there, it wouldn't change

1 dramatically the view. I think you are going to
2 still see the same type of architecture, whether
3 it's there or not.

4 So I didn't think it was detrimental, even
5 from that point of view. All right.

6 However, this, as Mr. Schulman pointed out,
7 this went through four different applications or
8 four different presentations. Each one Suzanne
9 and Mr. Bass brought up certain things, and I
10 really do think that in hindsight their points
11 helped sway the board to tell the applicant to
12 improve the building, which is what they are
13 doing today, and I really do feel like the
14 building was improved during that time, although
15 I can't remember -- I remember there was one
16 version I really liked, and I don't remember if
17 that was the last version or not, but it seemed
18 to be a little more stripped down or something;
19 but I think rather than having these people come
20 back four or five times, I don't know what you
21 are all feeling about this project, but my
22 feeling is if we can get Suzanne and their
23 architect together, and they come back and
24 everybody agrees that this is the type of
25 building that should be there, it's marketable.

1 It meets the criteria that Ms. Martinson has put
2 out as being somewhat acceptable architecture or
3 even better than that, then we live in a perfect
4 world. So I would encourage that. I would like
5 to hear how you feel.

6 MR. SCHULMAN: Mr. Chairman, can I address
7 that before we go much further with that?

8 I think Mr. Bass was quite candid with the
9 board as to the type of architecture that he and
10 his clients would like to see here, and that is
11 a Mediterranean Revival single-family lot
12 concept, and we understand that. We know that
13 Jeff and I can walk outside right now and we can
14 agree upon that and we would be done.

15 We also know that over the entire period of
16 time that we went through the almost year of
17 board review we never were able to reach
18 agreement with our neighbors regarding what they
19 wanted to see on the site in the way of
20 architectural nuances. This board eventually
21 wanted the building to be somewhat different and
22 this building is somewhat different. It's
23 smaller in mass. It's substantially different
24 than any other building on Fisher Island, and I
25 don't think that that's going to really do

1 anything.

2 Without getting into the specifics of it,
3 Mr. Bass and I have spoken about this building
4 before we filed the application, and we were
5 unable to agree to any understanding with regard
6 to this building.

7 This building we believe stands on its own,
8 and nothing that we say will change the fact
9 that our neighbors don't want a building of this
10 size next to it, and I don't care if you
11 designed it with Helmut Jahn, Carlos Ott,
12 whatever architect that you manage to find, all
13 right, and it was this size building which has
14 been approved for this site since the beginning
15 of zoning when it was zoned on Miami Beach,
16 there is not going to be in agreement with us
17 regarding that, and I virtually guarantee that,
18 and I know you are well intentioned, Mr.
19 Chairman, because like to try to reach
20 consensus, but there is really no consensus
21 here. They don't want us there. All right.
22 They live in a building and the proof -- the
23 proof of the pudding is in the eating. All
24 right. Jeff said it. All right. They live in
25 a building which right now they are telling you

1 is bad architecture and their excuse is they
2 didn't build it. They bought it for \$2 million
3 or more, and now the next building, they don't
4 like this one because it's bad architecture,
5 which I disagree with. I think Robert Swedroe &
6 Associates is quality architecture, and they
7 have attempted to keep the flavor of the island
8 but changed it substantially from any other
9 building on the island so it stands alone. We
10 are not going to agree architecturally with
11 Suzanne on a building or Jeff or his clients, as
12 long as it's a building that comes out of the
13 ground.

14 MR. NEVILLE: It's the type of
15 recommendation I would make with any, any
16 application --

17 | MR. SCHULMAN: This is different.

18 MR. NEVILLE: -- that comes here with
19 neighbors that object. Get together with the
20 neighbors, and you know, let's come together.
21 Let's make this a really nice --

22 | MR. SCHULMAN: I know and we tried and --

23 MR. NEVILLE: Okay.

24 MR. HELD: I would also counsel against
25 that recommendation.

1 MR. NEVILLE: Okay. All right. I take
2 that off the board.

3 MR. STEFFENS: Counsel, against which
4 recommendation?

5 MR. HELD: Sending the architects to try
6 and work together to a bring up a solution
7 because --

8 MR. CHEVALIER: Bring staff. Let staff do
9 that.

10 MR. STEFFENS: Put staff between them.

11 MR. HELD: Exercise in futility.

12 MS. HYMAN: With a referee.

13 MR. NEVILLE: Let's do our job then. Let's
14 debate the project.

15 MR. SCHULMAN: Can I finish up my last
16 point on rebuttal? And that is, I would like to
17 ask William a question, also again in the nature
18 of, not in the nature of cross-examination.

19 What role, if any, does context play when
20 you are judging whether or not a particular
21 architectural style is acceptable or
22 unacceptable? Does context play a role?

23 MR. CARY: Of course context plays a role.

24 MR. SCHULMAN: Is there any other place in
25 Miami Beach that would meet the context of

1 Fisher Island as it presently exists
2 architecturally?

3 MR. CARY: Not as -- perhaps not as a
4 thoroughly because it's been so exercised in
5 Fisher Island.

6 MR. SCHULMAN: The only other points I
7 would raise, Mr. Chairman, is that, again, this
8 building is not a mirror image of the building
9 next door. It's substantially smaller. It is
10 different. It does not have the same floor
11 plate as our neighbors. It is a different
12 building, and in point of fact, we believe it's
13 a better example of contemporary Mediterranean,
14 if you will, than the building in which these
15 residents live, which is good architecture to
16 begin with for Fisher Island; and we do disagree
17 that this is not good architecture, especially
18 coming from those that live in the building and
19 basically paid for it with their hard-earned
20 dollars in order to basically enjoy the lovely
21 architecture that they have.

22 MR. NEVILLE: Thanks, Mr. Schulman. Let's
23 open up here to the board. Anybody like to take
24 the initial step? Mike?

25 MR. STEFFENS: As Cliff stated, I was here

1 last time and Mr. Bass quoted me on Lefrak City,
2 and I was also more or less in agreement with
3 what you were -- with what you were reiterating,
4 Greg, about this being separate, this being
5 Fisher Island, this being those type of
6 buildings.

7 But I do have to say that I think that this
8 building is more devoid of architecture, whether
9 it be Mediterranean style architecture or Med.
10 Revival or whatever we want to call it, than any
11 building that we have seen proposed yet for this
12 site.

13 I think this building, while I don't agree
14 with this architecture in any place else on
15 Miami Beach other than Fisher Island, I think
16 this building needs a lot of work before it
17 could exist on Fisher Island.

18 So I would say that the architect would
19 need to take another look at this building and
20 do some more work on it and come back to us. I
21 don't have a problem approving the Fisher Island
22 kind of building, but I just don't think this
23 really works very well.

24 MR. NEVILLE: Mike, I leave it up to you.
25 If you want to be any more specific and send the

1 architect, if it comes to that, send the
2 architect away with any recommendations that
3 would improve it or what they should focus on
4 perhaps.

5 MR. STEFFENS: I think Suzanne made a lot
6 of good comments in this building. It's a slab.
7 It's not really articulated very well. The
8 scale and proportions of the openings are not
9 handled very well. There is not a lot of
10 articulation in the height. It doesn't step
11 down. You know, the Mediterranean Revival
12 buildings aren't a slab, you know. It needs
13 some more articulation in it and more scale
14 quality.

15 MR. NEVILLE: Okay. Thank you, Mike.
16 Peter?

17 MR. CHEVALIER: I would like to add
18 actually two things. I think we do, just to
19 reiterate, we do look at the context and the
20 relevance and contextually this type of
21 architecture is relevant to its context.

22 The other thing is I think the board should
23 think about is it how far we want to go with the
24 piecemeal treatment of a site, and do we want to
25 see a master plan for this site? Do we want to

1 go there? And do we want to get into that? It
2 always makes me uncomfortable when someone says,
3 I am doing this here and I will show you the
4 rest later.

5 MR. NEVILLE: I think we can only assume
6 this is the only building intended to be put on
7 the site because it's the only one on the
8 application.

9 MR. CHEVALIER: Then they should tell us
10 that.

11 MR. NEVILLE: However, the last application
12 had three buildings and then it went to one,
13 but -- how did it finally come out, Tom?

14 MR. CHEVALIER: This hasn't been designed
15 as building sitting at one end of a site and the
16 rest to be --

17 MR. HELD: Sure, it has. This is a phased
18 development. This is the first of probably
19 three buildings. Yes, sir.

20 MR. STEFFENS: On South Pointe, it was the
21 original South Pointe Tower, that project
22 included all of that land in there, and it was
23 originally a proposal to do four or five sort of
24 similar towers in that area.

25 MR. MOONEY: That went by the wayside

1 because as you can see, it was developed
2 piecemeal. Each individual building was brought
3 before this board for approval at different
4 times.

5 MR. STEFFENS: But the original site plan
6 showed that tower and --

7 MR. MOONEY: Yes.

8 MR. STEFFENS: -- four or five footprints
9 of other similar towers, and then when it came
10 back we weren't getting those other similar
11 towers. We were getting other buildings.

12 So if we here, if we get a site plan
13 proposal, they will come back to us at a later
14 date and in a similar fashion revise those other
15 towers where those footprints are.

16 MR. HELD: But you will be assured it will
17 be consistent architecture.

18 MR. KNIGHT: Ultimately you need a frame of
19 reference to --

20 MR. MOONEY: Ultimately you retain final
21 control over what is going to be constructed on
22 the other portions of this site, which would be
23 to the immediate southwest of this site.

24 So whether it's shown now or shown to you
25 two or three years later, you are still going to

1 retain control.

2 MR. SCHULMAN: In point of fact, Mr.
3 Chairman, the previous court order basically
4 said that specifically we would have to come
5 back to you for any other buildings on the site,
6 and I think one of the reasons we were trying to
7 maintain the flexibility is, I don't know what
8 the other building or buildings, will look like.
9 Okay. This building is a different building
10 than I brought you three years ago. All right.
11 Because of differences that have taken place in
12 the market beyond Fisher Island in other areas.
13 And as to what's going to take place in the
14 remainder of the site, we need the flexibility
15 to be able to respond. I don't know, and you
16 couldn't ask me today will there be two or three
17 more buildings on this site? I don't know. It
18 will depend upon the market, what's out there.
19 The first units on Fisher Island, just to give
20 you an idea, were 2200 square feet in size.
21 Those are the units over by the main marina.

22 Unfortunately, I am the lawyer who runs
23 with the land. I have been with the Fisher
24 Island since the beginning, and it was thought
25 in those years -- it was brilliant -- 2200

1 square foot units. Those units were quite
2 different than the 4,000 and 5,000, 6,000 square
3 foot units that are being built today on Fisher
4 Island in this marketplace, and the buildings
5 were going to have necessarily be different. We
6 will have to come back to you with each of the
7 buildings and prove that it integrates into the
8 site from the point of view that we are doing
9 now.

10 We are showing you how this building
11 integrates into the as-built character of the
12 rest of the site where Villa del Mare was
13 approved alone. Okay. Not with the rest of the
14 site, and this building is two-thirds the size
15 of Villa del Mare with totally different unit
16 layouts than were there before. And so we need
17 that marketing flexibility, but we cannot avoid
18 coming back to this board. Not that I would
19 like to, of course, because I make my living
20 doing it, but we will be back before you, and
21 you will ask those questions as to context,
22 et cetera. But again, we don't know what the
23 next building is going to be until we see what
24 the marketplace is.

25 MR. NEVILLE: Peter, do you have anything

1 else to add? Okay.

2 Gary?

3 MR. KNIGHT: I guess I am not impressed
4 with this building. I am -- I don't think it
5 has sufficiently interesting architectural
6 elements to make it worthwhile to spend two or
7 \$3 million on a condominium in it. So I don't
8 really understand if this is indeed a market
9 response, what the nature of the market is
10 because I would want to live, if I am going to
11 spend that kind of money, in something that is
12 architecturally much more interesting even if it
13 is Mediterranean Revival, and even if it is in
14 the context of sort of a Disney-esque
15 Mediterranean location.

16 I think that the building can be a better
17 building as -- in order to meet what I would
18 think would be your marketing concerns and also
19 what I think should be the design concerns that
20 we have.

21 I don't think it, however, doesn't -- that
22 the whole idea of a Mediterranean building like
23 this doesn't have any -- fits within the context
24 of the County portion of the property and the
25 City portion of the property, and I don't see

1 else to add? Okay.

2 Gary?

3 MR. KNIGHT: I guess I am not impressed
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19 what I think should be the design concerns that
20 we have.

21 I don't think it, however, doesn't -- that
22 the whole idea of a Mediterranean building like
23 this doesn't have any -- fits within the context
24 of the County portion of the property and the
25 City portion of the property, and I don't see

1 that this -- it's the board's purview to change
2 that particular correction. So I would -- I
3 propose that we continue it, see a better design
4 and move forward.

5 MR. NEVILLE: Thanks, Gary.

6 Steve.

7 MR. KNIGHT: I will move --

8 MR. NEVILLE: I am sorry. Steve, do you
9 want to add anything?

10 MR. LEFTON: Yes, I think -- think my
11 comments are going to be pretty much along the
12 same vein, but I want to provide as much
13 clarity to the applicant as possible if we can
14 come to some level of consensus.

15 I don't have an issue with things like
16 separation or the size of building or the mass
17 of the building. My problem is with the actual
18 building, and I think we need to separate those
19 issues. I mean, it's the architecture, I think,
20 and going to heightening the quality of the
21 architecture of this particular building, it
22 seems to me like it's a Med. Revival skin on a
23 very simple rectangular building, and I guess I
24 would challenge the design team to look to a
25 building that has some more movement and some

1 animation beyond this rectangular sort of column
2 system that we see in a lot of some of the more
3 contemporary buildings. That's what was
4 applied, and then a skin put on it.

5 So that is my biggest concern is that I do
6 believe that on this style or this, the
7 direction of Med. Revival, I don't think this is
8 what we are looking for in this building; that
9 what has been presented in this building meets
10 the quality of some of the other buildings and
11 would heighten the quality of Fisher Island. If
12 that's what we are trying to do, and I think it
13 is.

14 So I do want to make it clear, everybody is
15 in agreement, that we are looking for something
16 that is contextually appropriate with the
17 buildings on Fisher Island and put that debate
18 to rest. And focus on the actual buildings so
19 the architect can bring us back something that
20 we can really move forward with.

21 MR. NEVILLE: I think that's very well
22 stated. I think we all agree in that.

23 Anybody want to make a motion then?

24 MR. LEFTON: I will make the motion. I
25 will make the motion to continue with a request

1 that the architect come back to us with a
2 building that's architecturally contextually
3 appropriate for Fisher -- what we see existing
4 on Fisher Island to address the -- how would you
5 describe this -- the -- not so much the scale,
6 the movement of the building. The overall mass
7 I believe is acceptable, to the movement within
8 the building to create more of a -- maybe
9 animation within the facades or to address the
10 lack of massing articulation.

11 MR. MOONEY: Okay. Cliff, when would you
12 like to come back?

13 MR. SCHULMAN: Are you available tomorrow?
14 I think we can churn this out overnight. I
15 don't see a problem with that.

16 MR. NEVILLE: Why don't we just do it
17 tonight?

18 MR. SCHULMAN: Why don't we just stick
19 around through the planning board meeting. We
20 can probably get it done at the end of the
21 planning board meeting. We would like to be on
22 next available agenda.

23 MR. MOONEY: May, so you continue May 18th.

24 MR. NEVILLE: Okay.

25 MR. SCHULMAN: Tom, what's the deadline for

1 filing revised plans?

2 MR. MOONEY: Next week, you are looking at
3 middle to late next week.

4 MR. NEVILLE: Did anyone second that?

5 MR. SCHULMAN: Late next week?

6 MR. MOONEY: Yes.

7 MR. KNIGHT: I will second it.

8 MR. NEVILLE: Gary seconds. All in favor,
9 say aye. All opposed? None opposed.

10 MR. SCHULMAN: Thank you, Mr. Chairman.

11 (Whereupon, the proceedings concluded at
12 1:10 p.m.)

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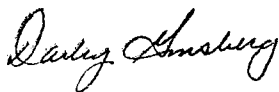
HEARING CERTIFICATE

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I, Darby Ginsberg, Registered Professional Reporter, certify that I was authorized and did stenographically report the foregoing proceedings and that this transcript is a true and complete record of the proceedings before the Court.

I further certify that I am not a relative, employee, attorney, or counsel for any of the parties nor am I a relative of, employee of any of the parties; attorney of counsel connected with the action, nor am I financially interested in the action.

DATED this 26th day of June, 2004.



Darby Ginsberg, RPR
Notary Public